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ATTORNEYS FOR PLAINTIFF
 INTUITIVE SURGICAL OPERATIONS, INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

INTUITIVE SURGICAL OPERATIONS, INC.,
 Plaintiff,
 v.
 JONATHAN LAM, AND DOES 1-10,
 Defendant.

Case No. 3:24-cv-7427

**DECLARATION OF KORNKANOK
 PHUTRAKUL IN SUPPORT OF
 PLAINTIFF INTUITIVE SURGICAL
 OPERATIONS, INC.'S *EX PARTE*
 MOTION FOR A TEMPORARY
 RESTRAINING ORDER AND
 EXPEDITED DISCOVERY**

Case No. _____

1 I, Kornkanok Phutrakul declare:

2 1. I, Kornkanok Phutrakul, am employed by Plaintiff Intuitive Surgical Operations,
3 Inc. ("Intuitive"), as its Director of Global Logistics Compliance. I submit this Declaration in
4 support of Intuitive Surgical Operations, Inc.'s Motion for a Temporary Restraining Order. The
5 facts set forth in this Declaration are based on my personal knowledge, following a reasonable and
6 diligent inquiry. I could and would testify competently to such facts if called upon to do so.

7 2. I served as Intuitive's Senior Manager of Logistics Compliance / CTPAT (Customs
8 Trade Partnership Against Terrorism) from August 2023 until July 2024, when I was promoted to
9 Director of Global Logistics Compliance. I have held that role since that time. My principal duties
10 include developing and implementing strategies, policies, procedures, and internal controls to
11 support Global Logistics Compliance and supply chain security; enhancing compliance
12 effectiveness and operational efficiency through the IT automation; and overseeing import and
13 export operations as well as broker performance.

14 3. Intuitive is the developer, manufacturer, and distributor of advanced surgical robotic
15 platforms. Intuitive has invested substantial time, money, and human resources to develop its
16 technology, business practices, operating processes, and other proprietary information that enables
17 Intuitive and its affiliates to deliver sophisticated surgical equipment to patients and health care
18 providers nationally and around the world. Such confidential information includes, without
19 limitation, equipment manufacturing and sourcing plans, third-party vendor and supplier
20 relationships, international export infrastructure, import and export compliance protocols, and other
21 critical matters. The company maintains as strictly confidential, for example, records setting forth
22 analyses of national and international regulatory requirements and trade laws (including legal
23 memoranda prepared by company counsel), strategies and customized processes to comply with the
24 same, a curated roster of design and manufacturing partners and vendors, the terms of Intuitive's
25 legal and business relationships with such third parties, the company's negotiation and transaction
26 histories with them, analyses of product component make-or-buy decisions and associated pricing,
27 and actual and forecasted demand for and usage of Intuitive products. This and other of Intuitive's
28 proprietary information contributes substantially to the company's commercial success, as it allows

1 Intuitive to navigate complex regulatory landscapes, optimize production and manufacturing, shape
2 strategic direction, and compete in the increasingly-crowded field of surgical robotics.

3 4. Since approximately May 2024, I have served as Defendant Jonathan Lam's
4 ("Defendant") direct supervisor. Defendant supported the company's international supply chain
5 logistics and compliance functions and, as a result, was exposed to a substantial volume of non-
6 public, proprietary, and competitively-sensitive Intuitive information. This includes documents
7 and information relating to which components of Intuitive's products are manufactured in-house or
8 sourced externally, the identities of and contracts with vendors from whom Intuitive procures
9 equipment not manufactured by the company, associated pricing and other terms, materials
10 evidencing roadmaps and future plans concerning export-related strategies, actual and forecasted
11 demand and usage of Intuitive products, privileged communications from Intuitive's legal counsel
12 regarding import and export requirements, and other highly sensitive matters.

13 5. On September 10, 2024, Defendant was told verbally and in writing that Intuitive
14 had determined to eliminate his position. The company invited Defendant to stay for an additional
15 two months to help transition his work to other personnel.

16 6. Shortly thereafter, however, Defendant effectively stopped working. He did not
17 respond to important emails and regularly failed to attend meetings with me.

18 7. On October 8, 2024, I was informed by Intuitive IT personnel that they had
19 determined that Defendant transmitted a substantial volume of Intuitive confidential information to
20 his personal Gmail account one day earlier (October 7). They asked me if Defendant's actions
21 were authorized. I confirmed that they were not. I was then asked to review the files Defendant
22 sent himself to help determine appropriate next steps.

23 8. I have reviewed many of the files that I was informed Defendant emailed to his
24 personal Gmail account after learning on September 10, 2024 that his employment would soon end.
25 The vast majority of what I reviewed contain and reflect information that I and others at Intuitive
26 regard as highly confidential. The documents I reviewed include, without limitation:

- 27 • Spreadsheets identifying Intuitive finished goods, where in the product lifecycle each
28 product component or part is, whether such component or part is manufactured by

Intuitive affiliates or sourced from third-party vendors, the countries of origin, and other sensitive information. One such document is a file called "searchresults.csv[.]" a true and correct copy of which is attached hereto as **Exhibit 1**.

- Strategic material describing current and future priorities for Intuitive's Global Logistics Compliance organization and how they are to be met. One such document is a file called "[REDACTED].pptx[.]" a true and correct copy of which is attached hereto as **Exhibit 2**.
- Material reflecting a customized process for pulling "country of origin" data into Intuitive systems and thereby tracking part components made by Intuitive or sourced from third-party vendors and partners. One such document is a file called "[REDACTED].pdf[.]" a true and correct copy of which is attached hereto as **Exhibit 3**.
- The status of current and anticipated efforts to upgrade certain systems and technical capabilities, as well as the impact to Intuitive's global trade compliance efforts. One such document is a file called "[REDACTED].pptx[.]" a true and correct copy of which is attached hereto as **Exhibit 4**.
- Material disclosing certain Intuitive products and components whose manufacture Intuitive has relocated from one nation to another, along with the identities and contact information for applicable suppliers, the necessary inputs, pricing information, lead time, safety stock levels, dimensions, historical usage and demand data, and forward-looking forecasts. One such document is a file called "[REDACTED].xlsx[.]" a true and correct copy of which is attached hereto as **Exhibit 5**.
- Material reflecting a customized process for determining the country of origin of an item that is sourced from or made in multiple locations. One such document is a file called "[REDACTED].pdf[.]" a true and correct copy of which is attached hereto as **Exhibit 6**.
- Material memorializing a customized process for generating certain shipping and compliance documents for use in export activities. One such document is a file called "[REDACTED].pdf[.]" a true and correct copy of which is attached hereto as **Exhibit 7**.
- Enumeration of certain U.S. import shipments, shippers, declared values, duties, and taxes paid. One such document is a file called "[REDACTED] Report.xls[.]" a true and correct copy of which is attached hereto as **Exhibit 8**.
- Contracts between Intuitive entities and third-parties as well as records reflecting sums Intuitive paid to certain third-party suppliers. Exemplary documents are files called "Master Services Agreement [REDACTED].docx" and "[REDACTED] 2023 spend.xls[.]" true and correct copies of which are attached hereto as **Exhibits 9-10**.
- Commercial invoices reflecting the rosters and prices of products shipped abroad. Exemplary documents are files called "1705049712 CI.pdf" and "2483602883_Commercial Invoice.pdf[.]" true and correct copies of which are attached hereto as **Exhibits 11-12**.

- 1 • Work product prepared by Intuitive's consultants, including at [REDACTED]
2 regarding certain operational aspects of Intuitive's business. One such document is
3 called "[REDACTED].pptx[.]" a
4 true and correct copy of which is attached hereto as **Exhibit 13**.
- 5 • Identification of suppliers from whom Intuitive purchase raw materials and sub-
6 assemblies, along with supplier contact information and supplier part numbers, the
7 Intuitive product(s) in which such parts are used, and the countries of origin. One such
8 document is a file called "[REDACTED].xlsx[.]" a true and correct copy
9 of which is attached hereto as **Exhibit 14**.
- 10 • Iterations of excel spreadsheets and template documents used by Intuitive for shipping
11 authorizations, export controls, and other materials used in connection with delivering
12 company products to international customers. One such document is a file called
13 "[REDACTED].xlsx[.]" a true and
14 correct copy of which is attached hereto as **Exhibit 15**.
- 15 • Enumerations of ION products recently launched in a foreign country, whether they are
16 manufactured by Intuitive or by third-party partners, as well as the identities and contact
17 information for applicable third-party partners. One such document is a file called
18 "Book1.xls[.]" a true and correct copy of which is attached hereto as **Exhibit 16**.
- 19 • Memoranda, project trackers, draft documents, and other materials prepared by
20 Intuitive's legal counsel for purposes of providing legal advice, and thus subject to
21 attorney-client privilege and/or work-product protections.
- 22 • Screenshots of Zoom meetings and internal message threads depicting or describing
23 internal workflows and other confidential processes.

24 9. Many of the documents that Defendant Lam emailed himself bear legends
25 designating them as proprietary to Intuitive, including language such as "Intuitive confidential
26 information" and/or "For Intuitive internal use only – may not be shared or distributed."


27 10. Unauthorized use or disclosure of the information Defendant emailed to himself
28 would seriously harm the company, including by enabling competitors to improve their own
processes and business prospects as well as affording customers and vendors unfair leverage in
their negotiations and other dealings with Intuitive.

11. I did not authorize Defendant to send these or any other internal Intuitive files from
Intuitive's secure network to his personal Gmail account. I am not aware of anyone else
authorizing him to do so. I am not aware of any legitimate business purpose for Defendant to send
himself these files, particularly after he was advised of the upcoming elimination of his position
and he had effectively stopped working.

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I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: October 24, 2024

Signed by:

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Kornkanok Phutrakul